

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ELAINE L. CHAO, Secretary of Labor,	)	
United States Department of Labor,	)	C.A. NO.: 05-0286-JJF
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MCI Services, Inc., <i>et al.</i> ,	)	
	)	
Defendants.	)	

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**MOTION TO ALLOW DEPARTMENT OF LABOR ATTORNEY TO  
APPEAR WITHOUT LOCAL COUNSEL**

Pursuant to D. Del. L.R. 83.5, the United States respectfully moves this Court for an Order allowing Department of Labor Attorney, Joan M. Roller, to appear before this Court without local counsel. Additionally, the United States requests that Ms Roller be provided with an electronic filing password so that she can remotely file pleadings with this Court. In support of this motion, the United States provides the following:

1. The Department of Justice and the Department of Labor entered into a Memorandum of Understanding, dated February 11, 1975, in which the Department of Labor has primary litigating responsibility for complaints filed by the United States under the Employee Retirement Income Security Act of 1974 ("ERISA"). The Department of Labor has designated Joan M. Roller as lead counsel for this matter. Ms. Roller has been admitted to practice before this Court *pro hac vice*.

2. Local Rule 83.5 of this Court requires that an attorney such as Ms. Roller, who has not been admitted to practice by the Supreme Court of Delaware, associate with a member of the bar of this Court who maintains an office in the District of Delaware. D. Del. L.R. 83.5. ERISA is a highly specialized area of law for which the United States

Attorney's Office for the District of Delaware has no expertise. Accordingly, the United States Attorney's Office will not be able to provide much substantive assistance to Ms. Roller in this case. Additionally, requiring that AUSAs review and sign pleadings drafted by the Department of Labor, and appear at hearings at which Ms. Roller will be the primary attorney, will amount to a duplication of effort. Such a duplication of effort by government attorneys will result in an unnecessary expenditure of public funds for little, or no, public gain. Of note, the District Courts in all of the jurisdictions surrounding this District allow government attorneys such as Ms. Roller to appear without association of local counsel. See E.D.Pa. Local Rule 83.5(e), 83.5.2; Md. Local Rule 701(1)(b); N.J. Local Rule 101.1(f).<sup>1</sup> Accordingly, the United States respectfully requests that, in this particular case, the Court waive the local counsel requirement of Local Rule 83.5.

3. Department of Labor attorney Joan M. Roller has already been admitted to this Court *pro hac vice*. As such, she has submitted to the disciplinary jurisdiction of this Court, and has certified that she is generally familiar with this Court's Local Rules.

4. Additionally, Ms. Roller is an able and competent attorney. Ms. Roller is Regional Counsel for ERISA in the Office of the Solicitor, Region III, United States Department of Labor. She is responsible for managing all the civil litigation arising from the Department's responsibility under ERISA in Pennsylvania, Delaware, Maryland, the District of Columbia, Virginia and West Virginia. She has held this position since May

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<sup>1</sup> The New Jersey Local Rule allows out-of-town government attorneys to appear, but requires service upon the local United States Attorney. However, with the advent of electronic filing, the availability of local service is no longer relevant.

1994. Prior to May 1994, she served for four years as Regional Counsel for ESA. Ms. Roller joined the Department of Labor in 1974. Over the years, Ms. Roller has been lead counsel in many federal court trials as well as hearings before administrative law judges. She has taken and defended numerous depositions. In addition, she trains Department of Labor employees in the legal aspects of ERISA techniques. Ms. Roller is a graduate of the University of Pennsylvania and Villanova University Law School

5. Counsel for plaintiff has communicated with counsel for Principal Life Insurance Co. concerning the subject of this motion and he stated that he has no objection. MCI Services Inc. is an involuntarily dissolved, void corporation such that there is no one to contact with respect to this motion.

Accordingly, for the reasons set forth above, the United States respectfully requests that Department of Labor Attorney, Joan M. Roller, be allowed to appear before this Court without local counsel and that she be provided with an electronic filing password so that she can remotely file pleadings with this Court. A proposed order is attached hereto.

Respectfully submitted,

COLM F. CONNOLLY  
United States Attorney

\_\_\_\_\_/S/\_\_\_\_\_  
**Rudolph Contreras**  
Assistant U.S. Attorney  
Chief, Civil Division  
1007 N. Orange Street, Suite 700  
(302) 573-6277 ext. 154  
[Rudolph.Contreras@usdoj.gov](mailto:Rudolph.Contreras@usdoj.gov)  
*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 15<sup>th</sup> day of June 2005, I electronically filed the attached MOTION TO ALLOW DEPARTMENT OF LABOR ATTORNEY TO APPEAR WITHOUT LOCAL COUNSEL with the Clerk of the Court using CM/ECF. I have also mailed a copy of this motion to Counsel for Principal Life Insurance Co. at the following address:

Donald J. Koehler  
Counsel  
Principal Life Insurance Co.  
Principal Financial Group  
PO Box 9397  
DeMoines, Iowa 50306-9397

\_\_\_\_\_/S/\_\_\_\_\_  
RUDOLPH CONTRERAS  
Chief, Civil Division  
Assistant United States Attorney  
1007 Orange Street  
Suite 700  
Post Office Box 2046  
Wilmington, Delaware 19899-2046  
(302) 573-6277

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

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Defendants.

C.A. NO.: 05-0286-JJF

**ORDER**

UPON CONSIDERATION of the United States' motion to allow Department of Labor Attorney, Joan M. Roller, to appear without local counsel, the reasons stated therein, the lack of any opposition thereto, and the entire record herein, it is the \_\_\_\_ day of \_\_\_\_\_, 2005 hereby

ORDERED that the United States' motion should be and it hereby is granted; and  
it is,

FURTHER ORDERED that, for this matter only, Local Rule 83.5(d) is waived, and Department of Labor Attorney, Joan M. Roller, is not required to associate with local counsel nor is the United States Attorney's Office required to sign pleadings nor attend proceedings with her; and it is,

FURTHER ORDERED that the Clerk's Office provide Department of Labor Attorney, Joan M. Roller, with an Electronic Filing Log-In and Password so that she may

file pleadings in this Court without the participation of the United States Attorney's Office.

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UNITED STATES DISTRICT JUDGE